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**UNITED STATES BANKRUPTCY COURT**

**NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

**IN RE:**

Michael A. Giera

Debtor(s)

Case No.: 19-34003

Chapter: 7

Hearing Date: 1/29/2020

Judge David D. Cleary

**NOTICE OF MOTION**

**TO:** Steven R Radtke- Chill, Chill & Radtke PC, Trustee, 79 W Monroe Street Suite 1314, Chicago, IL 60603  
by electronic notice through ECF  
Michael A. Giera, Debtor(s), 7706 S. Menard, Burbank, IL 60459  
David M Siegel, Attorney for Debtor(s), 790 Chaddick Drive, Wheeling, IL 60090 by electronic notice  
through ECF

PLEASE TAKE NOTICE that on 1/29/2020, at 10:00AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge David D. Cleary, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Everett McKinley Dirksen Building, 219 South Dearborn, Chicago, Illinois, room 644, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

**PROOF OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on January 20, 2020 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on January 21, 2020.

/s/ Karl Meyer  
Attorney for Movant

Berton J. Maley ARDC#6209399  
Rachael A. Stokas ARDC#6276349  
Peter C. Bastianen ARDC#6244346  
Joel P. Fonferko ARDC#6276490  
Brenda Ann Likavec ARDC#6330036  
Karl V. Meyer ARDC#6220397  
Grant W. Simmons ARDC#6330446  
**Codilis & Associates, P.C.**  
15W030 North Frontage Road, Suite 100  
Burr Ridge, IL 60527  
(630) 794-5300  
**C&A FILE (14-19-11642)**

NOTE: This law firm is a debt collector.

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on January 20, 2020 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on January 21, 2020.

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/s/ Karl Meyer  
Attorney for Movant

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

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**NOW COMES** PNC Bank, National Association (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois;
2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 7706 Menard Ave, Burbank, IL 60459;
3. This security interest arose from a Note and Mortgage, executed on 6/9/2003, in the amount of \$165,432.00;
4. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 12/2/2019;
5. Movant is entitled to relief from the automatic stay under 11 U.S.C. §362(d) for the following reasons:
  - a. The Debtor is in default in the performance of the terms and conditions of said Note and Mortgage;
  - b. As of 01/17/2020, the Debtor(s) is/are contractually due for the 10/1/2019 payment and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;

- c. As of 01/17/2020, the estimated default through and including 1/1/2020 is \$7,849.62, which includes attorney fees and costs in the amount of \$931.00. Any payments received after this date may not be reflected in this default;
- d. As of 01/17/2020, the estimated payoff amount is \$153,685.35. The estimated fair market value of the property is \$166,166.00, per Debtor's Schedules. That to the best of Movant's knowledge, no non-exempt equity exists in the subject property or any equity that does exist is so insubstantial as to be of little or no benefit or burdensome to the estate;
- e. The above is especially true when considering the cost of selling the property, as outlined below:

Fair Market Value: \$166,166.00

Less Lien Payoff and Cost of Sale:

Estimated Payoff: \$153,685.35

Payoff of Other Liens:

Broker's Commission (6% of FMV): \$9,969.96

Other Closing Costs (estimated): \$2,000.00

Net Proceeds of Sale: \$510.69

(assuming no capital gains need to be paid)

(Please note: From these proceeds, Debtor(s) would be entitled to be paid \$15,000.00 representing the homestead exemption)

- f. The Trustee filed a No-Asset Report on 01/02/2020

6. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding which have been included in the calculation of any default figures quoted herein including:

\$750.00	for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same
\$181.00	for Court filing fee

7. The Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

**WHEREFORE,** PNC Bank, National Association prays this Court enter an Order pursuant to 11 U.S.C. §362(d) modifying the automatic stay as to Movant, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this January 20, 2020.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Karl Meyer

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